

(b) In making the finding required by paragraph (a)(5) of this section, we may consider whether the value of any part of the leased premises not covered by the sublease would be adversely affected.

(c) We will defer, to the maximum extent possible, to the Indian landowners' determination that the sublease is in their best interest.

(d) We may not unreasonably withhold approval of a sublease.

WSR LEASEHOLD MORTGAGES

§ 162.582 May a lessee mortgage a WSR lease?

(a) A lessee may mortgage a WSR lease by meeting the consent requirements in § 162.583 and obtaining our approval of the leasehold mortgage under §§ 162.584 and 162.585.

(b) Refer to § 162.574(c) for information on what happens if a sale or foreclosure under an approved mortgage of the leasehold interest occurs.

§ 162.583 What are the consent requirements for a leasehold mortgage of a WSR lease?

(a) Unless the lease provides otherwise, the lessee must notify all Indian landowners of the proposed leasehold mortgage.

(b) The Indian landowners, or their representatives under § 162.013, must consent to a leasehold mortgage in the same percentages and manner as a new WSR lease under § 162.012, unless the lease:

(1) States that landowner consent is not required for a leasehold mortgage and identifies what law would apply in case of foreclosure;

(2) Provides that individual Indian landowners are deemed to have consented where they do not object in writing to the leasehold mortgage within a specified period of time following the landowners' receipt of the leasehold mortgage and the lease meets the requirements of paragraph (c) of this section;

(3) Authorizes one or more representatives to consent to a leasehold mortgage on behalf of all Indian landowners; or

(4) Designates us as the Indian landowners' representative for the purposes of consenting to a leasehold mortgage.

(c) If the lease provides for deemed consent under paragraph (b)(2) of this section, it must require the parties to submit to us:

(1) A copy of the executed leasehold mortgage or other documentation of any Indian landowners' actual consent;

(2) Proof of mailing of the leasehold mortgage to any Indian landowners who are deemed to have consented; and

(3) Any other pertinent information for us to review.

§ 162.584 What is the approval process for a leasehold mortgage of a WSR lease?

(a) When we receive a leasehold mortgage that meets the requirements of this subpart, we will notify the parties of the date we receive it. We have 20 days from receipt of the executed leasehold mortgage, proof of required consents, and required documentation to approve or disapprove the leasehold mortgage. Our determination whether to approve the leasehold mortgage will be in writing and will state the basis for our approval or disapproval.

(b) If we do not meet the deadline in this section, the lessee may take appropriate action under § 162.588.

§ 162.585 How will BIA decide whether to approve a leasehold mortgage of a WSR lease?

(a) We may disapprove a leasehold mortgage of a WSR lease only if at least one of the following is true:

(1) The Indian landowners have not consented and their consent is required;

(2) The lessee's mortgagees or sureties have not consented;

(3) The requirements of this subpart have not been met; or

(4) We find a compelling reason to withhold our approval in order to protect the best interests of the Indian landowners.

(b) In making the finding required by paragraph (a)(4) of this section, we may consider whether:

(1) The leasehold mortgage proceeds would be used for purposes unrelated to the leased premises; and

(2) The leasehold mortgage is limited to the leasehold.

(c) We will defer, to the maximum extent possible, to the Indian landowners'